

Message Text

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ACTION EB-07

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DODE-00 FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00

NSC-05 PA-01 AID-05 CIEP-01 SS-15 STR-04 TAR-01

TRSE-00 PRS-01 SP-02 OMB-01 FEA-01 COM-02 NSCE-00

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FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC IMMEDIATE 2486

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TAGS: GATT, ETRD, BR

SUBJECT: DEMARCHE ON BRAZILIAN APPLICATION FOR GATT WAIVER
(SECOND EMBASSY APPROACH TO GOB)

REF: (A) STATE 266158 (B) STATE 265029 (C) STATE 265951
(D) SHUGART/WHITNEY TELCON, NOV. 7 (E) ZIMMERMANN/JOHNSON
TELCON, NOV. 11 (F) BRASILIA 9814

1. SUMMARY: ON NOVEMBER 13, PER TELECON AND REFTEL
(A) REQUESTS, DCM MET WITH CHIEF, ECONOMIC DEPARTMENT,
FONOFF, TO REITERATE AT HIGHER LEVEL IN
GOB US REQUEST THAT BRAZIL DELETE REFERENCE TO ART.
XXXVI:8 IN ITS WAIVER REQUEST. BRAZILIAN SIDE
REPEATED ITS STRONG OPPOSITION TO MAKING THIS DELETION.
IN ADDITION, BRAZILIANS EXPANDED ARGUMENT TO
CLAIM THAT US BELIEF THAT A C.P. SHOULD HAVE ONLY ONE
RECOURSE TO ART. XXXVI:8 WAS, ITSELF, A "PRECEDENT OR
NEW DOCTRINE" NOT ENVISAGED BY THE GATT. BRAZILIANS CONCEDED
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POSSIBILITY THAT LDC'S MIGHT TAKE ADVANTAGE OF THEIR PRECIDENT

TO REQUEST REPEATED RENEGOTIATIONS WITH LESS THAN FULL RECIPROCITY BUT THEY SEEMED TO ACCEPT THIS POSSIBILITY WITH EQUANIMITY. END SUMMARY.

2. PER TELECONS AND REFTEL (A) REQUESTS ON NOVEMBER 13, (APPOINTMENT WAS DELAYED ONE DAY AT FONOFF REQUEST) DCM AND EMBOFF MET WITH AMBASSADOR CABRAL DE MELLO, CHIEF, ECONOMIC DEPARTMENT, FONOFF, AND SERGIO RAUANET, CHIEF, COMMERCIAL POLICY DIVISION, FONOFF, AND REEMPHASIZED US POSITION AND POINTS OF ARGUMENT AGAINST CITING ART. XXXVI:8 ON BRAZILIAN APPLICATION FOR GATT WAIVER.

3. DISCUSSION CLOSELY FOLLOWED THAT OF NOVEMBER 11 WHEN EMBOFFS PRESENTED US AIDE-MEMOIRE TO COMMERCIAL POLICY DIVISION (REF F). BRAZILIAN SIDE REPEATED ARGUMENT THAT PASSAGE OF TIME SINCE 1967 WAIVER HAD CHANGED THEIR SITUATION. SINCE THAT TIME DOMESTIC INDUSTRIES HAD BEEN BORN WHICH THEY CLAIMED DESERVED PROTECTION CONSISTENT WITH ART. XVIII AND ART. XXXVI:8. BRAZILIAN SIDE CLAIMED THAT US REQUEST CONSTITUTES AN ATTEMPT TO CREATE A "PRECEDENT OR NEW DOCTRINE" BECAUSE, THEY SAID, THERE IS NO STATEMENT IN THE GATT THAT RECOURSE TO ART. XXXVI:8 CAN BE TAKEN ONLY ONCE.

4. DCM AND EMBOFF ASKED IF BRAZILIAN SIDE COULD NOT FORESEE THAT REPEATED REFERENCES TO "LESS THAN FULL RECIPROCITY" COULD LEAD TO THE SCENARIO DESCRIBED IN REFTEL (A) WHICH WOULD THREATEN VIABILITY OF GATT AND HURT C.P.'S INCLUDING BRAZIL. BRAZILIAN SIDE RESPONSE WAS THAT THEY WOULD ONLY SPEAK FOR BRAZIL. THEY DID NOT RELISH THE RENEGOTIATIONS WHICH ARE DIFFICULT AND TIME-CONSUMING AND, THEREFORE, COULD ONLY CONTEMPLATE MAKING A WAIVER REQUEST INCLUDING RELATIVE RECIPROCITY IN CASE OF SERIOUS NEED. DCM REITERATED US POINT THAT MULTIPLE RECOURSE TO LESS THAN FULL RECIPROCITY COULD BE CONSIDERABLE TEMPTATION TO OTHER COUNTRIES LESS CONCERNED WITH THEIR GATT OBLIGATIONS THAN BRAZIL.

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5. ON ISSUE OF LINKAGE OF NEW WAIVER TO 1967 WAIVER, BRAZILIAN SIDE AGAIN ADMITTED THE TWO WAIVER'S REQUESTS ARE DIFFERENT IN SUBSTANCE AND MOTIVE. HOWEVER, THEY SUGGESTED THERE IS A "METAPHORICAL" LINK BETWEEN THE TWO WAIVERS.

6. COMMENT: IN EMBASSY'S OPINION, BRAZIL IS MIXING IT METAPHORS BUT WILL PERSIST IN EFFORT TO MAINTAIN

REFERENCE TO ART. XXXVI:8 IN ITS WAIVER REQUEST.
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